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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/821,474

04/08/2004

Yoshinori Iketaki

04216/LH

1086

1933 7590 12/12/2007  
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EXAMINER

PRITCHETT, JOSHUA L

ART UNIT

PAPER NUMBER

2872

MAIL DATE

DELIVERY MODE

12/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/821,474

Applicant(s)

IKETAKI, YOSHINORI

Examiner

Joshua L. Pritchett

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This action is in response to Election filed October 24, 2007. Claims 1-15 were elected without traverse.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the angle adjustment mirrors and independent adjustment of the mirrors must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Figure 10 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Election/Restrictions***

Claims 16 and 17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 24, 2007.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kashima (US 6,094,300).

Regarding claim 1, Kashima discloses a specimen (110) illuminated by a light source (100) for exciting a molecule from a ground state to first electron exciting state to the specimen containing the molecule with three electronic states including at least a ground state, a second light from a second light source (2) for exciting the molecule from the first electron exciting state to the second electron exciting state with more higher level energy comprising a first deflection means (102) for deflecting the first light from the first light source two dimensionally (Fig. 10) a second deflection means (4) for deflecting the second light from the second light source two dimensionally (Fig. 10) a combining means (28) for synthesizing first light deflected by the first deflection means and second light deflected by the second deflection means on the same optical axis or on parallel optical axis to each other so as to progress the lights in the same direction (Fig. 10) a third deflection means (106) for deflecting the first light and the second light which are synthesized by combining means simultaneously (Fig. 10).

Regarding claim 2, Kashima discloses the first deflection means includes at least two angle adjustment mirrors or prisms capable of adjusting deflection angle mutually independently (col. 1 lines 45-50).

Regarding claim 3, Kashima discloses the second deflection means includes at least two angle adjustment mirrors or prisms capable of adjusting deflection angle mutually independently (col. 1 lines 45-50; col. 7 lines 14-26).

Regarding claim 6, Kashima discloses a first angle divergence adjusting means (103) for adjusting the angle of divergence of the first light in the optical path between the first light source and the combining means is provided (Fig. 10).

Regarding claim 7, Kashima discloses a second angle of divergence adjusting means (5) for adjusting the angle of divergence of the second light in the optical path between the second light source and the combining means is provided (Fig. 10).

Regarding claim 8, Kashima discloses a third angle of divergence adjusting means (110) for adjusting the angle of divergence of the first light and the second light is provided in the optical paths of the first light and the second light synthesized by the combining means is provided (Fig. 10).

Regarding claims 9-11, Kashima discloses the first, second and third divergence adjusting means are lenses (Fig. 10).

Regarding claims 12 and 13, Kashima discloses all the structural limitations of the claim language and therefore would be capable of performing all the claimed functional limitations of the claim language (MPEP 2114).

Regarding claim 14, Kashima discloses a beam diameter adjusting means (20) for adjusting the beam diameter of the first and/or second light (Fig. 15).

Regarding claim 15, Kashima discloses the observation means (115) for observing the beam condensing state of the first light and the second light on the focal plane of the beam condensing optical system (Fig. 10).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kashima (US 6,094,300).

Kashima teaches the claimed invention except for the duplication of third deflection means being to independently adjustable mirrors. It would have been obvious to one having ordinary skill in the art at the time the invention was made to duplicate the first and second pair of independently adjustable mirrors since it have been held that a mere duplication of working parts of a device involves only routine skill in the art. One would have been motivated to duplicate the independently adjustable mirrors for the purpose of providing greater control over the direction of the light incident the specimen.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kashima (US 6,094,300) in view of Iketaki (JP 08-184552).

Kashima teaches the invention as claimed but lacks reference to phase modulation. Iketaki teaches the use of phase modulation element (6) between the first light source and the first deflection means and/or between the second light source and the second deflection means (Fig. 26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Kashima invention include the phase modulation of Iketaki for the purpose of further differentiating between the first light beam and the second light beam.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L. Pritchett whose telephone number is 571-272-2318. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

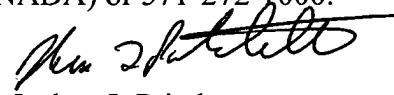
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on 571-272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Joshua L Pritchett  
Primary Examiner  
Art Unit 2872